

APPEAL,CUSTODY

U.S. District Court
District of New Mexico – Version 6.2.2 (Albuquerque)
CRIMINAL DOCKET FOR CASE #: 1:18-cr-04166-JBM-1

Case title: USA v. Eriacho

Date Filed: 12/19/2018

Date Terminated: 08/12/2019

Assigned to: Senior Judge Joe
Billy McDade

Defendant (1)

Carlandrew Eriacho
TERMINATED: 08/12/2019

represented by **Todd A. Coberly**
Coberly Law Office
1322 Paseo de Peralta
Santa Fe, NM 87501
505-306-4019
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

18:1153 and 1112: Involuntary
Manslaughter.
(1)

Disposition

SENTENCE IMPOSED: CBOP-37 months;
Supervised Release-3 years; SPA-\$100; deft in
custody

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level
(Terminated)

None

Complaints

None

Disposition

Plaintiff

USA

represented by **David Patrick Cowen**
 United States Attorney's Office
 P.O. Box 607
 Albuquerque, NM 87103
 505-346-6899
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Date Filed	#	Page	Docket Text
12/19/2018	<u>2</u>		REDACTED INDICTMENT as to Carlandrew Eriacho. (emr) (Entered: 12/20/2018)
01/03/2019			Arrest of Carlandrew Eriacho (kd) (Entered: 01/03/2019)
01/03/2019			Case unsealed as to Carlandrew Eriacho (kd) (Entered: 01/03/2019)
01/03/2019			Set Hearings as to Carlandrew Eriacho: Initial Appearance set for 1/4/2019 at 09:30 AM in Albuquerque – 320 Rio Grande Courtroom before Magistrate Judge Karen B. Molzen. (kd) (Entered: 01/03/2019)
01/04/2019	<u>4</u>		Clerk's Minutes for proceedings held before Magistrate Judge Karen B. Molzen: Initial Appearance as to Carlandrew Eriacho held on 1/4/2019; Arraignment/Detention set for 1/7/2019 at 09:30 AM in Albuquerque – 320 Rio Grande Courtroom before Magistrate Judge Karen B. Molzen. (Recording Info: Rio Grande) (emr) (Entered: 01/04/2019)
01/04/2019	5		ORAL ORDER of temporary detention pending hearing as to Carlandrew Eriacho by Magistrate Judge Karen B. Molzen (emr) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 01/04/2019)
01/04/2019	<u>6</u>		Arrest Warrant Returned Executed on 1/4/19 as to Carlandrew Eriacho. (vv) (Entered: 01/04/2019)
01/04/2019	8		CJA Appointment of Attorney Todd A. Coberly for Carlandrew Eriacho by Magistrate Judge Karen B. Molzen (nm) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 01/04/2019)
01/07/2019	<u>9</u>		Clerk's Minutes for proceedings held before Magistrate Judge Karen B. Molzen: Arraignment/Detention as to Carlandrew Eriacho (1) Count 1 held on 1/7/2019 (Recording Info: Rio Grande) (emr) (Entered: 01/07/2019)
01/07/2019	<u>10</u>		DISCOVERY ORDER as to Carlandrew Eriacho by Magistrate Judge Karen B. Molzen (emr) (Entered: 01/07/2019)
01/07/2019	<u>11</u>		ORDER OF DETENTION as to Carlandrew Eriacho by Magistrate Judge Karen B. Molzen (emr) (Entered: 01/07/2019)
01/11/2019	<u>12</u>		NOTICE OF HEARING as to Carlandrew Eriacho: Jury Selection/Trial set for 3/11/2019 at 09:00 AM in Albuquerque – 460 Vermejo Courtroom before District Judge James O. Browning. (kg) (Entered: 01/11/2019)

01/28/2019	<u>13</u>	Unopposed MOTION to Continue <i>Trial and Extend Motions Deadlines by 90 Days</i> by Carlandrew Eriacho. (Coberly, Todd) (Entered: 01/28/2019)
02/01/2019	<u>14</u>	ORDER TO CONTINUE by District Judge James O. Browning granting <u>13</u> Unopposed MOTION to Continue <i>Trial and Extend Motions Deadlines by 90 Days. Jury Trial rescheduled for 3/18/2019 at 09:00 AM in Albuquerque – 460 Vermejo Courtroom.</i> (vv) (Entered: 02/01/2019)
03/08/2019	15	NOTICE OF HEARING as to Carlandrew Eriacho: Change of Plea set for 3/13/2019 at 10:00 AM in Albuquerque – 320 Rio Grande Courtroom before Magistrate Judge Jerry H. Ritter. (kd) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 03/08/2019)
03/13/2019	<u>16</u>	Clerk's Minutes for proceedings held before Magistrate Judge Jerry H. Ritter: Plea Hearing held on 3/13/2019, Guilty Plea entered by Carlandrew Eriacho (1) Guilty Count 1. (Recording Info: RIO GRANDE @ 10:37 AM) (cl) (Entered: 03/13/2019)
03/13/2019	<u>17</u>	CONSENT TO PLEA BEFORE US MAGISTRATE JUDGE by Carlandrew Eriacho (vv) (Entered: 03/13/2019)
03/13/2019	<u>18</u>	Proffer of evidence at trial by Carlandrew Eriacho (vv) (Entered: 03/13/2019)
05/22/2019	21	NOTICE OF HEARING as to Carlandrew Eriacho: Sentencing set for 6/13/2019 at 02:00 PM in Albuquerque – 460 Vermejo Courtroom before District Judge James O. Browning. (cab) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 05/22/2019)
06/07/2019		Reset Hearings as to Carlandrew Eriacho AS TO TIME ONLY : Sentencing set for 6/13/2019 at 02:30 PM in Albuquerque – 460 Vermejo Courtroom before District Judge James O. Browning. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.](cab) (Entered: 06/07/2019)
06/10/2019	<u>22</u>	Unopposed MOTION to Continue <i>Sentencing for 28 Days</i> by Carlandrew Eriacho. (Coberly, Todd) (Entered: 06/10/2019)
06/14/2019	<u>25</u>	ORDER by District Judge James O. Browning granting <u>22</u> Motion to Continue as to Carlandrew Eriacho (1) Sentencing set for 7/29/2019 at 02:30 PM in Albuquerque – 460 Vermejo Courtroom before District Judge James O. Browning. (vv) (Entered: 06/14/2019)
06/18/2019	<u>26</u>	SENTENCING MEMORANDUM by USA as to Carlandrew Eriacho (Cowen, David) (Entered: 06/18/2019)
07/24/2019	<u>27</u>	SENTENCING MEMORANDUM by Carlandrew Eriacho (Attachments: # <u>1</u> Exhibit A (Letters), # <u>2</u> Exhibit B (Photos))(Coberly, Todd) (Entered: 07/24/2019)
07/25/2019	<u>28</u>	RESPONSE by USA as to Carlandrew Eriacho re <u>27</u> Sentencing Memorandum (Cowen, David) (Entered: 07/25/2019)
07/26/2019	29	MINUTE ORDER pursuant to the direction of District Judge James O. Browning as to Carlandrew Eriacho, sentencing presently set for 7/30/19 is vacated and will be reset by separate notice at a later date. (cab)

			[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 07/26/2019)
07/29/2019	30		NOTICE OF HEARING as to Carlandrew Eriacho: Sentencing set for 8/12/2019 at 02:20 PM in Albuquerque – 560 Cimarron Courtroom before Senior Judge Joe Billy McDade. Any pleadings in response to the Presentence Report must be timely filed in accordance with D.N.M.LR–CR 32.C. Additionally, the United States Probation Office is ordered to provide to Defense Counsel and the Assistant U.S. Attorney, upon written request, copies of documents which the USPO has used to determine Defendants prior criminal history. USPO may provide any such requested documentation via electronic mail. Counsel must notify Juan Gonzales at 505–348–2247 immediately upon receipt of this notice IF an evidentiary hearing is needed OR if the hearing will take more than 20 minutes. (jmg) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 07/29/2019)
08/12/2019	<u>31</u>		Clerk's Minutes for proceedings held before Senior Judge Joe Billy McDade: Sentencing held on 8/12/2019 for Carlandrew Eriacho (1), Count(s) 1, SENTENCE IMPOSED: CBOP–37 months; Supervised Release–3 years; SPA–\$100; deft in custody. (Court Reporter: M Loughran) (vv) (Entered: 08/16/2019)
08/21/2019	32		PLEASE TAKE NOTICE that this case has been reassigned to Senior Judge Joe Billy McDade. The first page of each document must have the case file number and initials of the assigned judge. <i>Accordingly, further documents filed in this matter must bear the case number and the judge's initials shown in the case caption and the NEF for this document.</i> Kindly reflect this change in your filings. District Judge James O. Browning no longer assigned to this case. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (vv) (Entered: 08/21/2019)
08/22/2019	<u>33</u>	7	JUDGMENT as to Carlandrew Eriacho by Senior Judge Joe Billy McDade (jmg) (Entered: 08/22/2019)
09/03/2019	<u>34</u>	5	NOTICE OF APPEAL by Carlandrew Eriacho re <u>33</u> Judgment (Filing Fee – Waived) (Coberly, Todd) (Entered: 09/03/2019)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 18-cr-04166-JBM

v.

CARLANDREW ERIACHO,

Defendant.

NOTICE OF APPEAL

Defendant Carlandrew Eriacho, by and through undersigned counsel, hereby gives notice of his intent to appeal his final judgment and sentence, (Doc. 33), and all interim orders in the above-referenced cause, to the U.S. Court of Appeals for the Tenth Circuit.

Respectfully submitted,

/s/ Todd A. Coberly
Todd A. Coberly
1322 Paseo de Peralta
Santa Fe, NM 87501
(505) 989-1029
coberlylaw@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of September, 2019, I filed the foregoing using the CM/ECF system, which will electronically send notification of such filing to all counsel of record.

/s/ Todd A. Coberly
Todd A. Coberly

UNITED STATES DISTRICT COURT
District of New Mexico

UNITED STATES OF AMERICA

Judgment in a Criminal Case

V.

CARLANDREW ROLANDO ERIACHOCase Number: **1:18CR04166-001JBM**USM Number: **02660-151**Defendant's Attorney: **Todd A. Coberly**

THE DEFENDANT:

- ☒ pleaded guilty to count(s) **Indictment**.
- ☐ pleaded nolo contendere to count(s) which was accepted by the court.
- ☐ was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<i>Title and Section</i>	<i>Nature of Offense</i>	<i>Offense Ended</i>	<i>Count</i>
18 U.S.C. Sec. 1112	Involuntary Manslaughter, Crime in Indian County, 18 U.S.C. Sec. 1153	09/06/2017	

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. The Court has considered the United States Sentencing Guidelines and, in arriving at the sentence for this Defendant, has taken account of the Guidelines and their sentencing goals. Specifically, the Court has considered the sentencing range determined by application of the Guidelines and believes that the sentence imposed fully reflects both the Guidelines and each of the factors embodied in 18 U.S.C. § 3553(a). The Court also believes the sentence is reasonable and provides just punishment for the offense.

- ☐ The defendant has been found not guilty on count(s) .
- ☐ Count(s) dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

August 12, 2019

Date of Imposition of Judgment

/s/ Joe Billy McDade

Signature of Judge

Honorable Joe Billy McDade**Senior United States District Judge**

Name and Title of Judge

August 22, 2019

Date

DEFENDANT: **CARLANDREW ROLANDO ERIACHO**
CASE NUMBER: **1:18CR04166-001JBM**

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: **37 months**.

☒ The court makes the following recommendations to the Bureau of Prisons:
Safford Federal Correctional Institution, Safford, Arizona, if eligible

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at on .
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on .
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to
_____ at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **CARLANDREW ROLANDO ERIACHO**
CASE NUMBER: **1:18CR04166-001JBM**

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: **3years**.

MANDATORY CONDITIONS

1. You must not commit another federal, state, or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(Check, if applicable.)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state, local, or tribal sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(Check, if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.

9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may, after obtaining Court approval, require you to notify that person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

DEFENDANT: CARLANDREW ROLANDO ERIACHO
CASE NUMBER: 1:18CR04166-001JBM

SPECIAL CONDITIONS OF SUPERVISION

You must not use or possess alcohol.

You must not knowingly purchase, possess, distribute, administer, or otherwise use any psychoactive substances (e.g., synthetic cannabinoids, synthetic cathinones, etc.) that impair your physical or mental functioning, whether or not intended for human consumption.

You must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program. You may be required to pay all, or a portion, of the costs of the program.

You shall waive your right of confidentiality and allow the treatment provider to release treatment records to the probation officer and sign all necessary releases to enable the probation officer to monitor your progress. The probation officer may disclose the presentence report, any previous mental health evaluations and/or other pertinent treatment records to the treatment provider.

You must reside in a residential reentry center for a term of 6 months. You must follow the rules and regulations of the center.

You must participate in an outpatient substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.). You may be required to pay all, or a portion, of the costs of the program.

You shall waive your right of confidentiality and allow the treatment provider to release treatment records to the probation officer and sign all necessary releases to enable the probation officer to monitor your progress. The probation officer may disclose the presentence report, any previous substance abuse evaluations and/or other pertinent treatment records to the treatment provider.

You must submit to substance abuse testing to determine if you have used a prohibited substance. Testing may include urine testing, the wearing of a sweat patch, a remote alcohol testing system, an alcohol monitoring technology program, and/or any form of prohibited substance screening or testing. You must not attempt to obstruct or tamper with the testing methods. You may be required to pay all, or a portion, of the costs of the testing.

You must participate in an educational or vocational services program and follow the rules and regulations of that program. The probation officer will approve the program (agency, location, frequency of participation, etc.) and supervise your level of participation. You may be required to pay all, or a portion, of the costs of the program.

You must submit to a search of your person, property, residence, vehicle, papers, computers (as defined in 18 U.S.C. 1030(e)(1)), other electronic communications or data storage devices or media, or office under your control. The probation officer may conduct a search under this condition only when

reasonable suspicion exists, in a reasonable manner and at a reasonable time, for the purpose of detecting alcohol, drugs, weapons and firearms . You must inform any residents or occupants that the premises may be subject to a search.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature

Date

DEFENDANT: CARLANDREW ROLANDO ERIACHO
CASE NUMBER: 1:18CR04166-001JBM

CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments.

☐ The Court hereby remits the defendant's Special Penalty Assessment; the fee is waived and no payment is required.

Totals:	Assessment	JVTA Assessment*	Fine	Restitution
	\$100.00	\$0.00	\$0.00	\$0.00

☐ The determination of the restitution is deferred until . An *Amended Judgment in a Criminal Case* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☒ In full immediately; or

B ☐ \$ due immediately, balance due (see special instructions regarding payment of criminal monetary penalties).

Special instructions regarding the payment of criminal monetary penalties: Criminal monetary penalties are to be made payable by cashier's check, bank or postal money order to the U.S. District Court Clerk, 333 Lomas Blvd. NW, Albuquerque, New Mexico 87102 unless otherwise noted by the court. Payments must include defendant's name, current address, case number and type of payment.

The Court finds the Mandatory Restitution Act of 1996 is applicable in this case; however, no claim for restitution has been made by the victim(s) in this case. Therefore, none will be ordered.

Based on the defendant's lack of financial resources, the Court will not impose a fine or a portion of a fine. However, in accordance with U.S.S.G. 5E1.2(e), the Court has imposed as a special condition that the defendant reside at a residential reentry center. The Court concludes the total combined sanction without a fine or alternative sanction, other than the defendant reside at a residential reentry center, is sufficiently punitive.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTA assessment, (8) penalties; and (9) costs, including cost of prosecution and court costs.

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22